

**DRAFT**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**AGENDA ID # 16779  
RESOLUTION E-4947  
September 13, 2018**

**R E D A C T E D  
R E S O L U T I O N**

Resolution E-4947. Approval of Payment and Site Control  
Amendments to Power Purchase Tolling Agreements with Existing  
CHP Facilities

**PROPOSED OUTCOME:**

- This Resolution approves Amendments to an Agreement between San Diego Gas & Electric ("SDG&E") and Applied Energy, LLC ("AEI").

**SAFETY CONSIDERATIONS:**

- The terms of the Agreement state AEI must operate and maintain the facility within the terms of prudent electrical practices. SDG&E submitted a safety plan for the facilities that was certified by a licensed California engineer.

**ESTIMATED COST:**

- The cost of the Amended Agreement is confidential.

By Advice Letter 3246-E, Filed on July 5, 2018.

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**SUMMARY**

This Resolution approves amendments (Amendments) to two power purchase tolling agreements that San Diego Gas & Electric (SDG&E) executed with Applied Energy, LLC (AEI) and approved by the Commission on March 6, 2018 in Resolution E-4901.

Naval Station, the first of the two agreements (PPTAs or Agreements), was executed as part of SDG&E's 2016 CHP RFO, where it shortlisted the offer for further negotiations. Near the end of negotiations on the Naval Station PPTA, AEI extended a bilateral offer to SDG&E for a PPTA for North Island that was competitive with the shortlisted offer for Naval Station and which SDG&E accepted.

The Amendments will allow AEI additional time to obtain site control for its facilities from the United States Navy (Navy), upon whose property each of the facilities is located. AEI has been in negotiations with the Navy since the former leases expired on February 8, 2018. Once site control and Commission approval are obtained, AEI will make a one-time payment to SDG&E's Energy Resource Recovery Account (ERRA) as a credit to ratepayers. The proposed Amendments will additionally release AEI from financial penalty liability if the Navy later terminates the leases prematurely.

If the Amendments are not approved, the underlying Agreements will be deemed terminated as of June 30, 2018. Additionally, the delivery date for the facilities has been moved back to no later than January 1, 2019. SDG&E requests the Commission approve the Amendments by no later than September 13, 2018, so that SDG&E can count the facilities towards its year-ahead local resource adequacy compliance showings to the Commission and the California Independent System Operator.

## **BACKGROUND**

### *Background on Relevant terms of the CHP/QF Settlement*

On December 16, 2010, the Commission adopted the Qualifying Facility and Combined Heat and Power Program Settlement Agreement (Settlement) with the issuance of Decision (D).10-12-035. The Settlement resolves a number of longstanding issues regarding the contractual obligations and procurement options for facilities operating under legacy and qualifying facility contracts.

The Settlement establishes megawatt (MW) procurement targets and GHG Emissions Reduction Targets the investor-owned utilities (IOUs) are required to

meet by entering into contracts with eligible CHP Facilities, as defined in the Settlement.

Pursuant to D.10-12-035, the three large electric IOUs must procure a minimum of 3,000 MW of CHP and reduce GHG emissions consistent with the California Air Resources Board (CARB) Scoping Plan, currently set at 4.8 million metric tons (MMT) by the end of 2020.

Per Section 4.2 of the Settlement Term Sheet, the IOUs are directed to conduct Requests for Offers (RFOs) exclusively for CHP resources as a means of achieving their MW and GHG Emissions Reduction Targets. In addition, per Section 4.3 of the Settlement Term Sheet, bilaterally negotiated and executed CHP Power Purchase Agreements (PPAs) are included among the procurement options in the CHP Program. Pricing, terms, and conditions will be determined according to the executed and approved PPA. The use of an independent evaluator (IE) is required for bilateral negotiations between an IOU and its negotiating partner.

Under D.15-06-028, the Greenhouse Gas Emissions Reduction Targets were revised to collectively achieve 2.72 MMT of emissions reductions from CHP facilities by 2020. The agreement also established a schedule of four competitive solicitations for CHP facilities during the Second Program Period, which began on November 23, 2015.

In accordance with D.15-06-028, SDG&E launched a CHP RFO in February 2016. In June of 2016, SDG&E shortlisted the Naval Station offer for further negotiations. Near the conclusion of negotiations on the Naval Station PPTA, AEI extended a bilateral offer to SDG&E for a PPTA for North Island that was competitive with the shortlisted offer for Naval Station and which SDG&E accepted. The parties concluded negotiations on the North Island bilateral PPTA on terms identical with the Naval Station PPTA (other than differences in physical description and operating attributes of the North Island facility).

*Background on Naval Station and North Island CHP facilities*

The Naval Station generating unit is a 48 MW combined cycle gas turbine, and the North Island generating unit is a 38.6 MW LM-6000 combined cycle gas turbine. The units are each located on sites owned by the United States Department of Navy (the “Navy”) under long term leases held by AEI. The Naval Station unit is situated at the 32nd Street Naval Station just south of downtown San Diego and interconnects to SDG&E’s Division Street substation. The North Island unit is located at Naval Air Station North Island and interconnects to SDG&E’s North Island Metering Switchyard.

*SDG&E Settlement Targets*

The PPTAs further the goals of the CHP Settlement by converting SDG&E’s legacy contracts with Naval Station and North Island from must-take as-available energy to fully dispatchable Utility Prescheduled Facilities (UPFs) by SDG&E. The agreements put SDG&E’s total MWs procured from CHP at approximately 224 MW, exceeding the obligation to procure at least 211 MW from the Settlement. Approval of the Amendments do not change SDG&E’s progress to the targets.

**NOTICE**

Notice of AL 3246-E was made by publication in the Commission’s Daily Calendar. San Diego Gas & Electric states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

**PROTESTS**

Advice Letter AL 3246-E was not protested.

**DISCUSSION**

On July 5, 2018, SDG&E filed Advice Letter 3246-E requesting Commission approval of Amendments to an Agreement with AEI, previously approved by the Commission in Resolution E-4901 on March 1, 2018.

Specifically in this Advice Letter, SDG&E requested that the Commission:

1. Approve the Amendments to Agreement in their entirety;
2. Find that the Amendments to the Agreement, and SDG&E's entry into the Amendments, is reasonable and prudent for all purposes, subject only to further review with respect to the reasonableness of the agreement;
3. Find that SDG&E's costs under the Agreement shall be recovered through SDG&E's Cost Allocation Mechanism (CAM), and can credit the expected payment from AEI to SDG&E's Energy Resource Recovery Account (ERRA).

**Energy Division evaluated the Proposed Amendments based on the following criteria**

- Consistency with D.10-12-035, which approved the QF/CHP Program Settlement, including:
  - Consistency with:
    - GHG Counting Rules
    - CHP MW Counting Rules
  - Need for Procurement
  - Cost Reasonableness
  - Public Safety
  - Project Viability
  - Consistency with the Emissions Performance Standard
  - Consistency with D.02-08-071 and D.07-12-052, which respectively require Cost Allocation Mechanism Group participation
  - Energy Division typically considers the analysis and recommendations of an Independent Evaluator (IE), if available.
  - Disadvantaged Community Designation

**Consistency with D.10-12-035, which approved the QF/CHP Program Settlement,**

*Consistency with Definition of CHP Facility and Qualifying Cogeneration Facility*

To be eligible to count towards Settlement MW and GHG goals, all CHP facilities, excluding those that convert to Utility Prescheduled Facilities, must meet the federal definition of a qualifying cogeneration facility under 18 C.F.R.

§ 292.205 by the term start date and through the duration of the proposed PPA, and must also maintain QF certification. With reference to the federal regulations, the Settlement establishes minimum operating and efficiency requirements for topping-cycle facilities and establishes efficiency standards for bottoming-cycle facilities. AEI's CHP facility meets the terms of the Settlement. Nothing in the Amendments approves a material modification to the facility and thus AEI's CHP facility still meets the terms of the Settlement.

### **Consistency with GHG Counting Rules**

Under the goals of the CHP Settlement, the PPTAs convert SDG&E's legacy contracts with Naval Station and North Island from must-take, as-available energy to fully dispatchable energy. The reduced run time reduced costs and GHG emissions. The combined projects will result in an expected GHG Credit of 0.069869 MMT (0.043076 MMT from Naval Station and 0.026793 MMT from North Island). Nothing in the Amendments modifies the expected GHG credits from the facilities.

### **Consistency with MW Counting Rules**

Under the goals of the CHP Settlement, SDG&E was ordered to procure at least 211 MW from CHP. The combined projects will result in an expected 86.6 MW. The agreements put SDG&E's total MWs procured from CHP at approximately 224 MW, exceeding the obligation to procure at least 211 MW from the Settlement. Nothing in the Amendments modifies the MWs procured by the Agreements.

### **Need for Procurement**

SDG&E currently has only 137 MW of CHP capacity under contract pursuant to this settlement and needs the capacity of both facilities to meet its 211 MW target. SDG&E currently has achieved 0.02 MMT of GHG reductions and also needs to procure this CHP resource in order to meet its GHG reduction requirement of 0.28 MMT under the CHP Agreement. The Amendments maintain the MW and GHG reduction targets acquired under the Agreement, which was previously

approved on March 1, 2018. Finally, SDG&E seeks to use both facilities towards their RA program requirements.

### **Cost Reasonableness**

The price of the Agreements were the least cost offers SDG&E received to meet its CHP needs and the Amendments do not change this. More information on the cost of the proposed Amendments is contained in the Confidential Appendix.

### **Public Safety**

Pursuant to D.15-06-028, SDG&E provides a report from an independent, California licensed engineer certifying that the AEI Facilities have a feasible safety plan. Energy Division reviewed the safety plan, the engineer's certification and finds that it meets the requirements set forth in D.15-06-028. The Amendments do not alter the proposed ownership or operation of the plants.

### **Consistency with Emissions Performance Standard**

In D.07-01-039, the Commission adopted a greenhouse gas Emissions Performance Standard ("EPS") which is applicable to an electricity contract for baseload generation, as defined, having a delivery term of five years or more. According to D.07-01-039, the EPS applies to generation facilities expected to have a capacity factor in excess of sixty percent (60%). For CHP facilities with a capacity factor above 60% and a term of greater than five years, the EPS applies unless the emissions from that portion of the thermal output that is used to generate electricity under the PPTA is less than one thousand one hundred metric tons of carbon dioxide equivalent per MWh (1,100 CO<sub>2</sub>e /MWh). The Naval Station and North Island facilities are each expected to operate at a capacity factor significantly below the 60% threshold throughout their delivery term, and therefore the EPS does not apply to these agreements or the Amendments.

## **CAM Group Participation**

SDG&E briefed its CAM Procurement Review Group (“PRG”) on the PPTAs on the following dates:

The Naval Station PPTA was presented and discussed on May 20, 2016, December 16, 2016, January 20, 2017 and April 21, 2017; the North Island PPTA was presented and discussed on April 21, 2017.

Additionally, SDG&E presented the Amendments to its CAM PRG on July 2, 2018. SDG&E has complied with the Commission’s rules for involving the CAM group.

## **Independent Evaluator**

SDG&E engaged Sedway Consulting, Inc. to act as Independent Evaluator (IE) for its 2016 CHP RFO and the IE participated in all elements of the RFO including participating in meetings and monitoring all communications between the parties.

## **Disadvantaged Community Designation**

Senate Bill 350 (de León, Chapter 547, Stats. 2015) contains disadvantaged community goals that are cross-cutting and therefore will be integrated into all policy areas.

The Naval Station facility, including the CHP generating unit, lays within Census Tract 6073003800, which is not a CalEnviroScreen Version 3.0 designated Disadvantaged Community. The North Island facility, including the CHP generating unit, lays within Census Tract 6073011300, which is not a CalEnviroScreen Version 3.0 designated Disadvantaged Community.



## **COMMENTS**

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

## **FINDINGS**

1. Commission Decision 10-12-035 directed SDG&E to procure 211 MW of combined heat and power capacity and established 0.50 MMT GHG reduction target.
2. Commission Decision 15-06-028 modified Decision 10-12-035 and revised SDG&E's GHG reduction target to .28 MMT.
3. On July 28, 2017, San Diego Gas & Electric (SDG&E) filed Advice Letter (AL) 3101-E seeking approval of a power purchase agreement with Applied Energy, LLC (AEI) (1) two Combined-Heat-and-Power power purchase tolling agreements (PPTAs) that San Diego Gas & Electric (SDG&E) executed with Applied Energy, LLC (AEI), (2) the Amendments, and (3) the RA Contracts.
4. AL 3101-E was approved by the Commission on March 1, 2018, in Resolution E-4901.
5. On July 5, 2018, SDG&E filed AL 3246-E seeking approval of Amendments to the two PPTAs between SDG&E and AEI.
6. The cost associated with the Amendments is just and reasonable.

## **THEREFORE IT IS ORDERED THAT:**

1. The request of San Diego Gas & Electric to approve amendments to the power purchase tolling agreements executed with Applied Energy, LLC, are approved;
2. San Diego Gas & Electric is to credit a one-time payment to its Energy Resource Recovery Account due from Applied Energy, LLC, once site control is obtained; and
3. San Diego Gas & Electric is authorized to recover costs via the cost allocation mechanism, as proposed in Advice Letter 3246-E.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on September 13, 2018; the following Commissioners voting favorably thereon:

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ALICE STEBBINS  
Executive Director

## **Confidential Appendix A**

APPENDIX REDACTED